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An Act to further Amend the Mines Act.

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VICTORIA.



ANNO SEPTIMO

EDWARDI SEPTIMI REGIS.

Victoria Australia - laws, statutes, etc.
No. 2127.

An Act to further amend the Mines Acts.

[23rd December, 1907.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Mines Act 1907* and shall be read and construed as one with the *Mines Act 1890* (hereinafter called the Principal Act) which Act and any Act amending the same and this Act may be cited together as the Mines Acts.

Short title.

Citation.

Nos. 1120, 1514,
1961.

2. The Acts mentioned in the Schedule to this Act to the extent to which they are thereby expressed to be repealed are hereby repealed.

Repeal.

Schedule.

3. In this Act unless inconsistent with the context or subject-matter—

Interpretation.

“Board” means the Sludge Abatement Board.

“Board”

“Owner” of any land means the person for the time being entitled to receive or who if the same were let to a tenant at a rack rent would be entitled to receive the rack rent thereof.

“Owner.”

“Trust”

"Trust."

"Trust" means a sludge abatement trust.

"Water-course."

"Water-course" includes river stream water-course water-way creek or gully, and in each case whether water flows therein perennially or intermittently.

Dredging and Sluicing.

Restriction of area
of dredging claims
and sluicing claims.
No. 1120 s. 106 (3).

4. Notwithstanding anything contained in the Mines Acts or in any by-laws made thereunder—

- (a) it shall not be lawful for any area exceeding five acres in extent to be held as a dredging claim or as a sluicing claim ;
- (b) the registration as a dredging claim or as a sluicing claim of any area exceeding five acres in extent shall have no force or effect ; and
- (c) it shall not be lawful for the owners of any two or more adjoining claims to amalgamate the same in such manner that the area of the amalgamated dredging claim or sluicing claim shall exceed five acres in extent.

1b. s. 7.

No. 1514 s. 10.

Rights of existing
holders.

5. The holder or holders at the time of the commencement of this Act of any dredging or sluicing claim or of any claim on which dredging or sluicing operations are carried on shall for six months from such time have the exclusive right of applying under the regulations relating to gold mining leases for a mining lease of the land comprised in such claim.

Rent of gold mining
leases of land to be
worked by means
of dredging or
hydraulic sluicing.
Compare No. 1514
ss. 28, 84, 86.

6. Notwithstanding anything contained in the Mines Acts the yearly rent to be payable on and after the first day of June One thousand nine hundred and eight in respect of every mining lease (whether granted before or after the commencement of this Act) of any land (whether Crown land or private land) to be worked by means of dredging or hydraulic sluicing shall be at the rate of Five shillings for every acre and portion of an acre demised.

Sludge Abatement Board.

Sludge Abatement
Board.
See No. 1961 s. 60
(1), (2).

7. (1) For the purpose of regulating hydraulic mining dredging sluicing or any other form of mining by which mineralized or impure water sludge or mining *débris* is discharged into any water-course lake or reservoir whether there is or is not water therein at the time of such discharge and for preventing injury to any such water-course lake or reservoir or to any land (whether agricultural or grazing land or land used for residential purposes) liable to be injured by such water sludge or mining *débris* the Governor in Council may appoint a Board to be called the Sludge Abatement Board ; and notice of such appointment shall be published in the *Government Gazette*.
(2) (a) The

- (2) (a) The Board shall consist of three members who may at any time be removed by the Governor in Council. The members of the Board holding office at the commencement of this Act shall be deemed to have been appointed hereunder;
- (b) Any two members of the Board shall form a quorum;
- (c) The Governor in Council may appoint one of the members to be the chairman of the Board.

8. It shall be the duty of the Board to report to the Minister and make such recommendations as the Board thinks fit in connexion with every application for a mining lease for any area upon which the applicant intends to carry on sluicing dredging or other mining operations which may pollute or injure any such water-course lake or reservoir not exempted from the operation of this Act as hereinafter provided or cause injury to any such land.

Report as to mining leases for sluicing &c.
See No. 1961 s. 6 (3) (c).

9. It shall be the duty of the Board—

- (a) to investigate any complaint made of or (whether a complaint has been made or not) to make inquiry concerning pollution or injury caused by sluicing dredging or other mining operations to any such water-course lake or reservoir not so exempted or to any such land and to order any person carrying on causing or directing such operations to refrain from doing or continuing any act or operation or to make such provision or take such steps as the Board directs to prevent the continuance of such pollution or injury;
- (b) to order any person who carries on causes or directs or is about to commence or authorize sluicing dredging or other mining operations which cause or will in the opinion of the Board cause pollution or injury to any such water-course lake or reservoir not so exempted or to any such land to refrain from doing or continuing any act or operation or to make such provision or take such steps as the Board directs to prevent such pollution or injury.

Investigations and inquiries by Board.
See No. 1961 s. 60 (3) (a).

Orders of Board.
See No. 1961 s. 60 (3) (b).

10. (1) For the purposes of this Act any water or sludge produced from or consequent on any mining operations and discharged into any such water-course lake or reservoir shall be deemed to pollute or injure the same if such water or sludge at the point where it leaves any claim or any land comprised in a lease or any land used in connexion with any such mining operations by or in any respect under the control of the person carrying on the same—

Meaning of pollution &c. in certain cases.
See No. 1961 s. 60 (6).

- (a) contains any poisonous matter in the total proportion of more than fifty grains to one gallon or any noxious matter in such quantity as to be injurious or detrimental to the public health; or

(b) holds

(b) holds in suspension or solution any earth or mineral or any earthy or mineral substance in the total proportion of more than eight hundred grains to one gallon.

(2) Notwithstanding anything in this section where any such water or sludge is produced from or consequent on any mining operations carried on by means of bucket or suction dredging in the bed of a water-course in which water is flowing there shall be substituted for the point where the water or sludge leaves such claim or land as aforesaid a point not less than a quarter of a mile along such water-course and below the site of the dredge.

Power to exempt
certain rivers &c.
See No. 1961 s.
60 (4).

11. (1) The Governor in Council may upon the report of the Board exempt from the operation of this Act such water-courses lakes and reservoirs or such portions thereof as by reason of the polluted condition thereof or for any cause which he thinks sufficient are in his opinion useless as a means of providing a water supply for domestic or stock purposes if the Board is satisfied that such exemption may be granted without causing injury to any such land.

(2) Notice of every such exemption shall be published in the *Government Gazette*.

(3) The Governor in Council may at any time revoke any such exemption; and notice thereof shall be published in the *Government Gazette*.

Hydraulic mining
&c. not to be
commenced till
Board satisfied as
to provision for
retention of sludge.

12. (1) No person shall commence any hydraulic mining dredging sluicing or other form of mining by which mineralized or impure water sludge or mining *débris* may be discharged into any water-course lake or reservoir as aforesaid unless and until the Board is satisfied that sufficient provision has been made for impounding sludge or mining *débris* and for preventing the escape thereof or of mineralized or impure water contrary to the provisions of this Act.

Penalty.

(2) Any person guilty of a contravention of this section shall be liable on conviction to a penalty not exceeding Twenty-five pounds and a farther penalty not exceeding Five pounds for every day on which mining operations are carried on.

Powers of Board
to order provision
to be made for
impounding sludge
&c.

13. (1) The Board with the consent in writing of the Minister may order any two or more lessees or holders of claims under the Mines Acts to make such provision jointly as the Board directs for impounding sludge or mining *débris* and for preventing the escape thereof from the land demised or from the land held as a claim or from any land used by such lessees or holders of claims as a settling basin and whether such land is or is not comprised in the lease or claim.

Voiding of lease if
order not complied
with

(2) If any lessee does not comply with such order the Board shall report such non-compliance to the Minister and thereupon the Governor in Council may if he thinks fit declare void the lease of such lessee.

(3) If

(3) If after such declaration the lessee carries on mining operations in under or upon the land demised by such lease he shall be liable on conviction to a penalty of Five pounds for every day on which mining operations are carried on.

Penalty for carrying on mining operations thereafter.

(4) When one or more of such lessees or holders of claims do not comply with the order of the Board then notwithstanding any penalty imposed by this Act the other or others of them upon complying with such order may recover before a Warden or in a Court of Mines from the lessees or holders of claims making default in such compliance or any of them the share of the cost thereof which should have been provided by such lessees or holders making default.

Recovery of contributions.

14. Any person who by himself or his agent or workman—

(a) carries on any mining operations as aforesaid in contravention of any order of the Board as aforesaid ; or

(b) disobeys any order of the Board

Penalty for contravention or disobedience of orders of Board.

See No. 1961 a.
60 (5).

shall be guilty of an offence ; and shall for every day upon which mining operations have been so carried on or such order has been disobeyed be liable on conviction to a penalty of not more than One hundred pounds to be recovered as provided in this Act or upon the complaint of any person aggrieved thereby.

15. Any person who by himself his agent or workman—

(a) wilfully destroys damages or interferes with any settling dam settling basin or works for retaining any mineralized or impure water sludge or mining *débris* so that any of such water sludge or *débris* escapes therefrom ; or

(b) in contravention of this Act wilfully discharges or causes or permits to be discharged from any such dam or basin or works into any such water-course lake or reservoir not exempted from the provisions of this Act any sludge or mining *débris*, or any mineralized or impure water or any water which under this Act is said to be deemed to pollute or injure the same

Penalty for injury to settling dams &c.

Discharging sludge *débris* or impure water into rivers &c.

shall be guilty of an offence and shall be liable on conviction to a penalty of not more than One hundred pounds or to be imprisoned for any term not exceeding twelve months.

Sludge Abatement Trusts.

16. The Governor in Council may by Order published in the *Government Gazette* constitute within the mining districts of Ballarat and Bendigo sludge abatement trusts for carrying out subject to the Mines Acts within their respective districts the purposes for which the Board is appointed.

Constitution of trusts.

17. The members of every sludge abatement trust shall be a body corporate by the corporate name assigned to it by the Governor in

Members of trust to be body corporate.

in Council and shall have perpetual succession and a common seal and shall be capable in law of suing and being sued and shall have power to purchase sell lease exchange and hold lands tenements and hereditaments (including easements) goods chattels and other property for the purposes of sludge abatement trusts under the Mines Acts and to deal with the same in manner provided by the said Acts.

Order in Council
constituting trust.

18. Every Order in Council constituting a sludge abatement trust shall—

- (a) specify the boundaries of the district of the trust ;
- (b) specify the number of members of the trust and state how many of them (if any) are to be appointed by the Governor in Council and how many (if any) are to be elected ;
- (c) specify what classes of bodies or of persons as hereinafter provided the members of the trust are to represent and how many members are to be appointed by the Governor in Council or elected (as the case may be) as representing each such class ;
- (d) assign a corporate name to the trust ;
- (e) specify the number of members which shall form a quorum thereof ;
- (f) contain such provisions (not inconsistent with the Mines Acts) as according to the facts and circumstances of the case the Governor in Council thinks fit.

Subsequent Orders
in Council.

19. Where any trust has been constituted the Governor in Council may by any additional Order published in the *Government Gazette*—

- (a) make any Order which might have been made in the original Order in Council constituting the trust ;
- (b) increase or diminish the extent of the district of the trust and alter the boundaries thereof ;
- (c) alter the corporate name of the trust ;
- (d) repeal any of the provisions of any previous Order in Council relating to the trust.

Classes of bodies or
of persons
represented on
trust.

20. (1) The members of each trust shall pursuant to the Order constituting the trust be appointed or elected to represent all or any of the four following classes of bodies or persons :—

- (a) The councils of the municipalities whose municipal districts are wholly or in part within the boundaries of the district of the trust ;
- (b) The owners of land (whether agricultural or grazing land or land used for residential purposes) within the district of the trust injured or liable to be injured as hereinbefore provided by reason of mining operations carried on within the district of the trust ;
- (c) The

(c) The registered companies carrying on mining operations within the district of the trust;

(d) All other bodies or persons carrying on mining operations within the district of the trust.

(2) Where from any cause any elective member of a trust is not elected the Governor in Council may appoint a fit and proper person to be a member of the trust and such person shall hold office as if he had been elected hereunder.

21. Upon a day to be fixed by the Governor in Council and notified in the *Government Gazette* the members of a newly constituted trust or a quorum thereof shall hold the first meeting of the trust.

First meeting of trust.

22. (1) From and after the date of the first meeting of the trust all the powers rights duties and functions of the Board so far as the same relate to the district of the trust shall save as herein otherwise provided vest in attach to and be exercised by the trust.

Vesting in trust of powers &c. of Sludge Abatement Board.

(2) A trust shall not exercise the duty of the Board to report to the Minister and make recommendations in connexion with applications for mining leases for any areas upon which it is intended to carry on sluicing dredging or other mining operations which may pollute or injure any water-course lake or reservoir or cause injury to any land as hereinbefore provided.

Duties of Board which are not exercisable by trust.

(3) For the purposes of this section all the provisions of this Act relating to the Board shall be read and construed with such modifications as may be necessary and as if for the word "Board" wherever occurring therein there was substituted the word "trust."

Construction of provisions giving powers &c. to Board.

23. (1) If any member of a trust—

(a) is absent without the permission of the trust from four consecutive meetings of the trust ;

Members vacating seats.

(b) becomes insolvent or compounds with his creditors within the meaning of any Act relating to insolvency ;

(c) is convicted of any felony or infamous offence ;

(d) is concerned in any contract with the trust ;

(e) becomes insane ;

(f) resigns his seat ; or

(g) dies

his seat shall thereby become vacant.

(2) No act or proceeding of any trust shall be invalidated or be illegal in consequence only of there being any vacancy in the number of members of the trust or in consequence only of its being afterwards discovered that there was any want of qualification of or defect in the election or appointment of any person who has acted as a member.

Proceedings validated.

24. Any

Officers and
employés.

24. Any trust may subject to this Act appoint such officers and employés as may be necessary for carrying out the purposes of the trust ; and subject to this Act may remove any person so appointed.

Construction of
works by trust.

25. (1) Where in the opinion of any trust it is necessary that the trust should undertake any works for preventing within the district of the trust or any part thereof pollution or injury to any water-course lake or reservoir or injury to any land as hereinbefore provided the trust shall cause to be prepared a general plan and description of the works proposed showing the character and extent of such works.

(2) The description shall clearly set forth—

- (a) the object and purpose of the proposed works ;
- (b) the mode in which it is proposed to obtain funds for their construction and maintenance ;
- (c) an estimate of the cost of the proposed works ;
- (d) a statement of the properties to be affected thereby and of the value of such properties.

(3) A copy of the general plan and description shall be forwarded to the Board which shall report to the Minister thereon.

(4) The Governor in Council may by Order approve of the construction of the proposed works with or without alterations or additions in the general plan and description thereof or with or without any conditions or may disapprove of the construction thereof.

(5) Where the Governor in Council approves of the construction of the proposed works with or without alterations additions or conditions the trust may construct and maintain the same in accordance with the provisions of such Order and of the Mines Acts.

General powers of
trusts.

26. For the purposes of any trust, the trust by its officers or servants may subject to the provisions and restrictions herein contained and in accordance with plans approved by the Governor in Council exercise any of the following powers :—

It may enter upon any lands described in such plans and make surveys and take levels and set out such parts thereof as it thinks necessary and make or set up any posts stakes trenches or other marks and do any other acts or things whatsoever necessary for such surveys :

It may purchase lease erect or construct any works buildings plant or machinery necessary to give effect to the plans approved by the Governor in Council ; and may maintain and with the sanction of the Governor in Council alter or discontinue the same :

It

It may by agreement purchase or lease any land or any easement right or privilege in over or affecting any land and may enter upon any land for the construction or improvement of such works :

It may with the consent in writing of the State Rivers and Water Supply Commission divert or alter as well temporarily as permanently any part of the course of any water-course in order the more conveniently to carry out any of the powers conferred on it :

It may with the like consent construct and maintain retaining walls weirs and dams in any water-course :

It may with the like consent cut drains and deliver water into or take water from and embank widen deepen or clear out any water-course :

It may construct and use any race drain dam settling basin or reservoir upon and through any lands specified by the Governor in Council except the site or curtilage of any house or garden yard court park plantation planted walk avenue or nursery for trees or vineyard :

It may deepen widen clean repair or otherwise improve any such race drain dam settling basin or reservoir.

27. (1) The *Lands Compensation Act* 1890 is hereby incorporated with this Act and shall be construed together herewith as one Act and shall take effect with regard to the purchase by agreement of land and of any easement right or privilege in over or affecting any land required for the purposes of any works which a trust is authorized to construct and maintain and with regard to the making of compensation to all persons interested in any land to be used in or in connexion with or likely to be injured or prejudicially affected by the construction or maintenance of any such works. Compensation.

(2) For the purposes of this section—

(a) the following expressions in the *Lands Compensation Act* 1890 shall have the respective meanings hereby assigned to them save where the context is inconsistent therewith (that is to say):— Interpretation

(i) “The Board of Land and Works” and “the Board” shall for the purpose of such purchase or compensation mean “the trust”;

(ii) “The special Act” shall mean this Act.

(b) “Owner” with respect to land shall mean the owner thereof within the meaning of the *Lands Compensation Act* 1890.

28. Where

Gold or minerals obtained by trust from certain *débris* to be property of trust.

28. Where any trust in carrying out any works or operations under this Act removes any sludge or mining *débris* from any water-course or excavates or removes any earth or material any gold or minerals obtained by the trust from such sludge mining *débris* earth or material shall be the property of the trust.

Loans by Governor in Council.

29. The Governor in Council out of any moneys to be appropriated from time to time by Parliament for the purpose may by Order subject to such terms and conditions as he thinks fit grant to any trust a loan for the purchase erection or construction of any works buildings plant or machinery or the purchase of any land as aforesaid.

Power to borrow temporarily or overdraw subject to the approval of the Governor in Council.

30. (1) For the purpose of providing for the expenditure necessary for the payment of such accounts as are chargeable to any loan granted by the Governor in Council to any trust until such expenditure is recouped from such loan the trust may from time to time borrow pay off and re-borrow so often as it thinks fit any sum or sums of money from any bank.

(2) The total amount of the sums owing at any one time by any such trust shall not exceed such amount as may be fixed by the Governor in Council.

(3) The Governor in Council may at any time by Order declare that the borrowing powers by this section conferred are withdrawn from any trust either indefinitely or for some specified period and thereupon such borrowing powers shall be deemed to be withdrawn in accordance with the terms of such Order.

Trust empowered to obtain overdraft.

31. (1) For the temporary accommodation of any trust it may obtain advances from any bank by overdraft of the current account upon the credit of the trust.

(2) No such overdraft or accommodation shall be obtained without the consent of the Governor in Council.

(3) Every such overdraft or accommodation shall be liquidated before the conclusion of the year ending on the thirtieth day of June in which it was obtained.

Interest or maintenance not to be paid out of loans.

32. (1) It shall not be lawful for any payment (whether in respect of principal or interest) to the Treasurer of Victoria on account of any loan or for any working expenses to be disbursed out of any moneys advanced by the Governor in Council by way of loan to any trust.

(2) Any member of any such trust and any officer or employé thereof who wilfully sanctions or concurs in any contravention of this section shall be guilty of an offence and on conviction thereof shall be liable to a penalty not exceeding Fifty pounds recoverable with full costs of suit by any person authorized in that behalf by the Minister.

33. (1) In

33. (1) In case default is made by any trust in making any payment (whether in respect of principal or interest) on account of any loan granted by the Governor in Council the Under Treasurer shall give notice thereof to the Minister and thereupon in addition to any other remedies the Minister may at any time after the expiration of three months from the date at which such payment became due give one month's notice in writing of the default to such trust.

Provision where default is made by trust.

(2) At the expiration of such month unless payment thereof is made in the meantime the Sludge Abatement Board may enter upon and take possession of and manage and maintain the property of such trust and without further or other warrant than this Act may do all things which might lawfully be done by such trust in all respects as though it were such trust ; and any reference in any Act applicable to such trust shall equally apply to the Board during such time as it retains possession of such property.

Powers of Board.

(3) The Board may appoint some person on its behalf to enter upon and take possession of the property of such trust ; and thereupon the person so appointed shall subject to the Board manage and maintain the same and in reference thereto may exercise all the powers rights duties and functions of the trust as provided in this Act.

Receiver appointed by the Board.

(4) The Board may at any time remove any person appointed as aforesaid and appoint any other person in his place.

Power to remove receiver.

34. (1) Possession of any property which may be taken by the Board under this Act may be relinquished at such time and in such manner and upon such terms and conditions as the Board thinks fit.

Power to relinquish possession of property taken.

(2) The Board may if it thinks fit on the relinquishment of possession reserve any of the said property powers rights duties and functions with a view to the payment of any moneys remaining or accruing due from or on account of the trust.

(3) Upon such relinquishment all powers rights duties and functions which on the taking possession have become vested in the Board shall so far as they are not reserved revert to and become vested in the trust in which the same would have been vested if possession had not been taken.

35. Every such relinquishment of possession of any such property shall be without prejudice to the power of again taking possession thereof under this Act.

Power to retake possession after relinquishment.

36. (1) The cost of the purchase erection or construction of any works buildings plant or machinery for the purposes of a trust and the cost of purchasing any land or any easement right or privilege in over or affecting any land for such purposes and including any compensation in respect thereof shall be paid to the trust by contributions by the several bodies and persons included in the respective classes entitled to be represented on the trust.

Contributions to cost of works.

(2) The

(2) The amount of contribution payable by each of such bodies or persons shall be assessed by the trust by by-law pursuant to this Act.

(3) Such contributions may vary in amount whether as regards the several classes of such bodies or persons or the individual members of any class or any individual persons.

Plans specifications
and scheme of
contributions to be
prepared.

37. (1) The trust shall cause to be prepared—

- (a) such specifications maps and plans as it thinks necessary ;
- (b) an estimate of the cost and a scheme of contributions setting forth the names of the persons or bodies of persons intended to be made liable the amounts of contribution chargeable to each and such other particulars as the trust thinks fit.

Inspection thereof.

(2) The same shall be kept at the office of the trust and shall be open for inspection by any person interested in or affected by any work referred to therein.

Notice to be served
on persons and
bodies liable.

Contents of notice.

38. The trust shall cause to be served on every person or body of persons intended to be made liable for any contribution under this Act notice in writing setting forth :

- (a) That such scheme of contributions has been prepared and is open for inspection and the amount of the liability of such person or body of persons ;
- (b) That on a date therein mentioned and being not less than fourteen days from the service of such notice the trust will proceed to consider such scheme and the liability of such person or body of persons in respect thereof ;
- (c) That any such person or body of persons may appear on such date before the trust to raise objections thereto ;
- (d) That in default of any such person or body of persons so objecting the same will be adopted and all such persons or bodies of persons will be considered as having admitted that the trust has complied with all the requirements of this Act and also their respective liabilities as appearing by the said scheme and will be in all respects then finally bound and concluded thereby.

Power to persons
interested or
affected to appear
before the trust
and make
objections.

39. Any person or body of persons interested in or affected by the scheme may appear before the trust on such date or on any date to which the consideration of the matter may be adjourned and object to such scheme ; but in no case shall it be necessary for the trust to give any notice of any adjournment of such consideration.

Adoption of
scheme.

40. (1) Upon the date so fixed or on any date to which the consideration of the matter may be adjourned the trust may :

If no person objects.

- (a) If no person or body of persons so objects adopt the said scheme ;

(b) If

- (b) If any person or body of persons objects to such scheme the trust shall thereupon or at some future date inquire into and consider the matter in the presence of such person or body of persons if he or they attend and after hearing the objections (if any) then made if it appears to the trust expedient so to do the trust may adopt the said scheme with or without alterations.

If any person objects.

(2) If at any time before such adoption the trust considers it necessary to add the name of any other person or body of persons to such scheme or to make any variation therein it may do so but shall give to every person or body of persons affected by such addition or variation a like notice at least fourteen days before such adoption and every such person or body of persons shall be in all respects in the same position as if his or its name had been originally included in such scheme or as if such variation had been part of the original scheme.

Power to add name of any person or make variations.

Notice to be given to persons so affected.

41. Upon such adoption every person or body of persons upon whom or which notice has been served and whose name is included in such scheme as adopted shall be considered as having admitted that the trust has complied with all the requirements of this Act and also his or its liability to pay the amount of his or its contribution in accordance with the scheme as adopted and shall be finally bound and concluded by all the matters aforesaid.

Effect of adoption of scheme.

42. When any such scheme has been so adopted the trust may by by-law and in accordance with the scheme as so adopted assess the amount of contribution to be paid by each of the several bodies and persons included in the respective classes entitled to be represented on the trust.

Assessing contributions.

43. A newly constituted trust shall before the thirtieth day of June following the date of its first meeting and thereafter once in each year ending on the thirtieth day of June cause an estimate to be prepared of the moneys required by the trust to each such thirtieth day of June for—

Charge for current expenditure.
Estimate.

- (a) The maintenance of any works buildings plant or machinery of the trust;
- (b) The payment of interest upon and the repayment of the principal moneys (or any part thereof) borrowed by the trust under this Act;
- (c) The expenses necessary for carrying out the purposes of the trust;
- (d) The cost of any works buildings plant or machinery proposed to be purchased erected or constructed out of the revenue of the trust;
- (e) The

- (e) The mode in which it is proposed to obtain the said moneys and the times at which and the amounts or instalments in which and the several persons by whom or bodies of persons by which it is proposed that any sludge abatement charge for that purpose shall be payable.

Making and levying
annual sludge
abatement charge.

44. (1) When any such estimate has been approved (with or without alterations or additions) by the Governor in Council, the trust may by by-law make and levy upon the several bodies and persons included in the respective classes entitled to be represented on the trust a charge to be called a sludge abatement charge sufficient to provide the moneys required in accordance with the estimate as so approved.

(2) Such charge may vary in amount whether as regards the several classes of such bodies or persons or the individual members of any class or any individual persons.

Amounts of contri-
bution or charge
how determined.

45. (1) The trust in determining the amounts of any contribution or charge shall in addition to any other matters have regard—

- (a) To the advantage or benefits appearing to accrue or likely to accrue to any of such bodies or persons from any such works or operations of the trust, and
- (b) In the case of any bodies or persons carrying on mining operations to any injury or pollution appearing to result or likely to result from such mining operations.

(2) Every contribution or charge shall be payable to the trust at such times and in such amounts or instalments as the trust may specify in the by-law fixing the contribution or making the charge.

Appeals against
amount of sludge
abatement charge.

46. (1) If any person thinks himself aggrieved by the amount of any charge which he is required to pay under any by-law of a trust making such charge he may within one month from the date of such by-law appeal against the same to the court of petty sessions held nearest to the office of the trust.

(2) Such court shall have power to hear and determine the subject matter of the appeal ; and the decision of the court shall be final and conclusive in all respects and shall not be set aside reversed altered or varied by or questioned in any court upon any ground whatsoever.

(3) No such appeal shall be heard or determined unless the person so appealing has given to the trust notice in writing of his intention to appeal at least seven clear days before the hearing of the appeal.

(4) For the purposes of this section the word "person" includes "body of persons."

47. The

47. The following provisions shall have effect with regard to any contribution or charge payable under this Act to any trust :—

(1) Where the same is payable by the council of a municipality, it shall be paid out of the municipal fund ;

Payment and recovery of contributions and charges.
Payable by councils.

(2) Where the same is payable by the owner of any land it shall be payable by the owner for the time being of the land and shall from the date of the publication of the by-law assessing or making the same be a charge on the land ;

Payable by land owners.

(3) Where the same is payable by any person or body of persons carrying on mining operations it shall in case of default by such person or body of persons be payable by any other person or body of persons to whom or which the interest of the first-mentioned person or body of persons in the mine where such mining operations are carried on comes by operation of law ; and shall from the said date be a charge upon all plant machinery and effects the property of any of such persons or bodies and used in connexion with such mining operations.

Payable by persons &c. carrying on mining operations

(4) No liability in respect of any such contribution or charge shall attach to the Crown ; and no such contribution or charge shall be a charge upon any land of the Crown.

Crown exempted.

48. Where it appears to the Governor in Council that any person or body of persons being the holder of any lease or licence under the Mines Acts has not within three months from the date of any by-law of a trust assessing any contribution or making any charge paid any such contribution or charge or any amount or instalment thereof which such body or person is liable to pay under such by-law the Governor in Council may declare such lease or licence to be void ; but such declaration shall not affect any liability of such person or body of persons in respect of such contribution or charge.

Power of Governor in Council to void leases &c. where lessees fail to pay contributions &c.

49. (1) Any trust may, subject to the approval of the Governor in Council, make by-laws not inconsistent with the provisions of the Mines Acts or of any regulation of the Governor in Council—

By-laws by trusts

(a) for regulating or prohibiting the discharge into any water-course lake or reservoir of mineralized or impure water sludge or mining *débris* ;

(b) for regulating the deposit stacking or impounding of sludge or mining *débris* ;

(c) for determining the amount of and the several bodies or persons or the classes of bodies or persons liable to pay any contribution or charge which the trust is authorized to assess or make (as the case may be) ;

(d) for assessing making and levying the same ;

(e) generally

(e) generally for carrying out the purposes of the trust within its district.

(2) Every such by-law shall be published in the *Government Gazette* and shall take effect from the date of such publication.

(3) Notice that such by-law has been so published stating the date of such publication and setting forth in general terms the purposes of the by-law and that a copy of the same is open for inspection at the office of the trust shall be forthwith given by advertisement in some newspaper circulating generally in the district of the trust.

(4) Any such by-law may provide a maximum penalty for any breach thereof not exceeding in any case Ten pounds for a first offence and Fifty pounds for any subsequent offence, and in cases of continuing offence a further penalty not exceeding Ten pounds for every day after notice of the offence from the trust.

(5) Where any trust fails or neglects to make any by-law which may be necessary hereunder the Governor in Council may make such regulation as he thinks fit instead of such by-law and the regulation so made shall have the same force and effect within the district of the trust as if it had been a by-law made by the trust.

Regulations.

50. (1) The Governor in Council may make regulations as to all or any of the following matters:—

- (a) The appointment or election the term of office and the resignation or removal of members of sludge abatement trusts;
- (b) The election term of office resignation or removal of a chairman for each trust;
- (c) The regulation of the proceedings of trusts and the keeping of minutes thereof;
- (d) The appointment remuneration and removal of officers or employés of trusts and the performance of the duties of such officers or employés;
- (e) The accounts of trusts and the audit thereof;
- (f) The procedure for making and the form of by-laws of trusts;
- (g) Generally all matters incidental to the performance of the duties of trusts which may be necessary or convenient.

(2) All such regulations when made by the Governor in Council shall be published in the *Government Gazette* and when so published shall have the force of law and shall be judicially noticed and shall be laid before both Houses of Parliament within fourteen days after the same shall have been made if Parliament be then sitting and if not then within ten days after the next meeting of Parliament, and a copy of any proposed regulations shall be posted to each Member of Parliament at least twenty-one days before such regulations are approved by the Governor in Council.

51. Save

51. Save where it is otherwise provided—

(a) All penalties imposed by or under any of the provisions of this Act relating to the Board or to trusts may be recovered as follows—

Penalties how recoverable.

(i) Where such provisions relate to the Board—by an inspector of mines thereto authorized by the Minister or by any person so authorized; or

(ii) Where such provisions relate to trusts—by any officer of the trust thereto authorized by the trust or by any person so authorized.

(b) The said penalties may be recovered from the person actually committing the offence or the person or body of persons in whose employment he is and on whose behalf he is acting :

From the person committing the offence or from his employer.

(c) All such penalties when recovered shall be applied to the purposes of the Board or the trust (as the case may be).

Penalties how applied.

52. (1) Every such penalty shall be without prejudice to any right to recover from any person or body of persons upon whom or which such penalty is so imposed

Recovery of penalty not prejudicial to right to take other proceedings.

(a) Any sum for damage occasioned through his or its act or default ;

(b) The cost and expenses incurred in remedying any such damage.

(2) The payment of any such penalty shall not bar or affect any right to bring any action or to take any proceeding against such person or body of persons.

53. The Minister or any trust (as the case may require) may order either generally or in any particular case that proceedings be taken for the enforcement of the orders of the Board or of the trust respectively or for the enforcement of any by-law or regulation made under the said provisions of this Act or for the recovery of any such penalties.

Order for prosecutions.

54. In any proceedings instituted under any of the said provisions no proof shall until evidence is given to the contrary be required—

Prima facie evidence of certain matters.

(a) of the appointment of the Board or of the constitution of any trust ;

(b) of the persons constituting the Board or the trust ;

(c) of the extent of the district of the trust ;

(d) of any order to take such proceedings ;

(e) of the authority of any officer of the trust or of any inspector of mines or of any person authorized by the trust or the Minister to take such proceedings ;

(f) of the appointment of any such officer inspector or person ;

(g) of

- (g) of the holding of any meeting of the Board or of the trust or of the presence of a quorum at any such meeting at the making of any order or the doing of any act; or
- (h) of the election or appointment of the chairman of the Board or of any trust.

Prima facie proof
of by-laws &c.

55. The production of—

- (a) A copy of the *Government Gazette* containing any by-law regulation order or notice purporting to be made or given under the provisions of this Act relating to the Board or to trusts; or
- (b) A copy purporting to be a true copy of any such by-law or regulation certified as such under the hand of the chairman of the Board or the trust—

shall be evidence until the contrary is proved of the existence and of the due making approval or giving of such by-law regulation order or notice and of all preliminary steps necessary to give full force and effect to the same and of the contents thereof.

Provision where
trust fails to dis-
charge its duties.

56. (1) Where after consideration of any report of the Board with respect to any trust and after giving the trust an opportunity of being heard it appears to the Governor in Council that the trust is not carrying out efficiently the purposes of the trust, the Governor in Council may by Order published in the *Government Gazette* remove all or any of the members of the trust and direct the election or appointment (as the case may require) of other persons in place of any members so removed.

(2) Thereupon such election or appointment shall take place pursuant to the Order.

Mining Boards.

Amendment of
No. 1961 s. 30.

Delegates to
conference of
mining boards.

57. (1) In section thirty of the *Mines Act* 1904 for the word "members" wherever it occurs there shall be substituted the word "delegates."

(2) At the end of sub-section (1) of the said section there shall be added the words "Every delegate shall be a member of the mining board by which he is elected a delegate."

(3) In sub-section (3) of the said section after the word "prescribing" there shall be inserted the words "the number of delegates to be elected by each mining board and the times and manner of election and."

(4) At the end of sub-section (3) of the said section there shall be inserted the words "All the powers of delegates assembled in conference may be exercised by any number thereof constituting a quorum; and no business shall be transacted at any meeting of delegates assembled in conference unless there is a quorum present."

(5) At

(5) At the end of the said section there shall be added the following new sub-section :—

“(5) No proceeding of and no by-law made by delegates assembled in conference shall be invalidated or illegal in consequence only—

(a) of any mining board not having elected a delegate ; or

(b) of its being afterwards discovered that there was some defect in the election of any person acting as a delegate or that any person so acting was not qualified for election as a delegate.”

Ventilation of Mines.

58. For sub-section (1) of section one hundred and thirty-five of the *Mines Act* 1897 as amended by section forty-five of the *Mines Act* 1904 there shall be substituted the following sub-section :—

Amendment of No. 1514, s. 135, as amended by No. 1961, s. 45.

“(1) An adequate amount of ventilation that is to say not less than seventy cubic feet of air each minute for each man and boy (except in the case of coal mines when the amount shall not be less than one hundred cubic feet each minute for each man and boy) and one hundred and fifty cubic feet each minute for each horse employed underground in a mine (excepting in cases where noxious gases exist to a dangerous degree or where high temperatures occur due to heat of rocks or other causes when the quantity of air required shall be increased to such amount not exceeding five hundred cubic feet respectively as may be ordered in each case by the Chief Mining Inspector) shall be constantly produced and properly distributed in every mine to such an extent that the shafts winzes levels underground stables and working places in such mine and the travelling roads to and from such working places shall be in a fit state for working and passing therein.

Adequate ventilation to be produced.

“The shafts winzes levels air pipes and working places shall be of sufficient area and kept clear for the free passage of the ventilating current, and shall be examined at least once in every week under the direction of the mining manager, who shall forthwith make an entry in his record book of their condition at each of such examinations and of the results of all ventilation tests made at each of such examinations.

Shafts &c. to be of sufficient area and kept clear.

“The air shall be of the same purity and quality when it enters any mine or any connected group of mines as the air on the surface, and after passing once through the workings of the mine or connected group of mines shall be returned to the surface and there discharged.

Quality of air.

“The amount of carbonic anhydride in the air in any working places of the mine or in the approaches thereto shall not exceed twenty-five parts by volume in ten thousand. The amount of oxygen in the air in such working places or the approaches thereto shall not be less than twenty per centum by volume. The maximum temperature of the air in any working place shall not exceed eighty-three degrees Fahrenheit by the wet bulb thermometer.

“Where

Powers of Chief
Mining Inspector.

"Where the air in any working place is not maintained at the standard herein prescribed the Chief Mining Inspector if satisfied that from any cause it is not reasonably practicable to maintain the air at such standard may determine the number of hours (not exceeding six) for which any person shall be employed in any such working place within any eight consecutive hours as provided for by section one hundred and thirty-two of the *Mines Act 1897*; and no such person shall be employed in on or about the mine for a greater number of hours at any one time than the number so determined.

See No. 1514 s. 132.

Auxiliary
ventilating
appliances.

"For the purpose of securing a better distribution of the ventilating current in and a proper supply of air to the working places in extensions of the levels winzes rises and shafts of any mine the Chief Mining Inspector may order that auxiliary ventilating appliances be provided and kept constantly working.

Winzes.

"All centre country winzes and all other winzes to be used for purposes of ventilation shall be sunk from a chamber excavated at the side of a level.

Ventilation
compartment.

"Where a new shaft is started (whether from or below the surface) which it is proposed shall be sunk beyond a depth of six hundred feet below the collar of the shaft or where the sinking of any shaft is continued beyond such depth or where any shaft exceeding such depth is further sunk one compartment shall be provided and used solely for purposes of ventilation and shall be close timbered and shall have an area of not less than ten square feet.

Drives connecting
mines.

"All drives by which any two or more mines are connected shall if considered necessary by an inspector of mines be kept open for ventilation and for escape; but the Chief Mining Inspector may order any connexion between mines to be closed where he considers that the ventilating conditions will be thereby improved.

"Upon the order of an inspector of mines made with the concurrence in writing of the Chief Mining Inspector owners shall construct such connecting drives where the works are not more than three hundred feet apart for ventilation and escape at their joint expense; and where deemed necessary for the purposes of ventilation by an inspector of mines all levels shall be connected by winzes upon the order of such inspector made with the concurrence in writing of the Chief Mining Inspector.

Recovery of cost
of connecting
drives.

"An owner who has constructed drives up to the boundary of his mine shall not be liable to contribute to the cost of constructing such drives into the land lease or claim of another owner unless in the opinion of an inspector of mines and of the Chief Mining Inspector such construction of drives or connexion is of benefit to the first-mentioned owner; and in default of such first-mentioned owner constructing such portion of such connecting drive as the warden shall adjudge to be a fair and reasonable proportion having regard to the amount of benefit derived by such first-mentioned owner or to contribute the cost thereof,
the

the warden may upon the complaint of the owner who has caused such connecting drive to be made determine the amount to be paid by such first-mentioned owner and every such complaint shall be deemed to be a proceeding within the meaning of section two hundred and nineteen of the Principal Act; and for the purpose of enabling wardens to hear determine and enforce such complaints and of enabling appeals to be made from their decisions all the provisions of Part I. of the Principal Act applying to proceedings under such section shall apply to such complaint so far as the same may be applicable.

No. 1120 s. 219.

“Upon the plan and sections of every mine required to be made under the Mines Acts there shall within three months from the commencement of this Act and thereafter at intervals of not more than one month be correctly delineated the direction of all air currents and the position of all ventilating appliances brattices air-crossings doors stoppings and air-pipes.”

Plans and sections of mines to show provisions made for ventilation.

See No. 1514 s. 146, No. 1961 s. 52.

Provisions for Health or Safety in Mines.

59. (1) Where in any mine provision is made as required by the Mines Acts for the purpose of preventing accidents or nuisances or securing the health or safety of persons employed in or about the mine, and any person as occasion may require wilfully refuses neglects or omits to make use of or avail himself of any appliances contrivances or means provided for any such purpose such person (if in the opinion of the court before which proceedings are taken any such refusal neglect or omission is of such a character as to be reasonably calculated to cause an accident or a nuisance or to endanger the health or safety of persons so employed) shall be liable on conviction to a penalty not exceeding Fifty pounds.

Penalty for not making use of appliances &c. for securing safety &c.

(2) Where latrine accommodation has been provided in any mine as required by the Mines Acts any person who pollutes or commits a nuisance in the underground workings of the mine or any unused or worked out portion of the mine shall on conviction be liable to a penalty not exceeding Ten pounds.

Penalty for committing nuisance in a mine
See No. 1961 s. 45 (48).

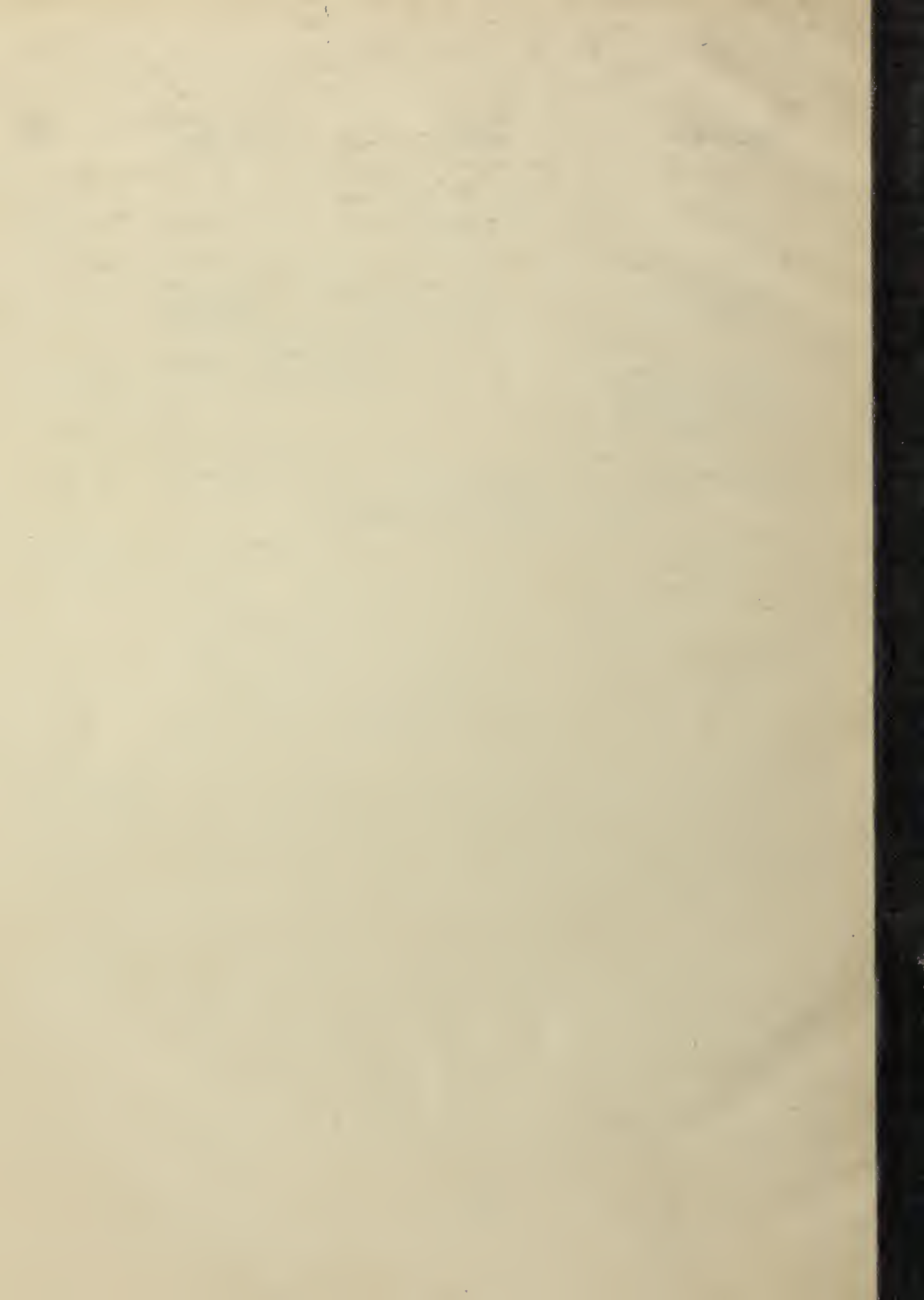
Section 2

SCHEDULE.

Number of Act.	Short Title of Act.				Extent of Repeal.
No. 1961 ...	<i>Mines Act</i> 1904	Section sixty.
No. 1514 ...	<i>Mines Act</i> 1897	Sub-section (1) of section one hundred and thirty-five as amended by section forty-five of the <i>Mines Act</i> 1904.

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